IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HEALTH MANAGEMENT PUBLICATIONS, INC.	:	CIVIL ACTION
v.	:	
WARNER-LAMBERT COMPANY[1]	:	NO. 98-1557

MEMORANDUM

Dalzell, J. November 10, 1998

This is an action for breach of contract and unjust enrichment.[2] Plaintiff Health Management Publications, Inc. ("HMP") is a corporation that coordinates educational programs and meetings for medical professionals on behalf of its clients. Defendant Warner-Lambert Company ("Warner-Lambert") is in the pharmaceutical business.

HMP alleges that in late 1995 or early 1996 it entered into an oral contract with Warner-Lambert to coordinate a series of eight meetings in various locations throughout the United States at a cost of $84,900 per meeting. In Count I of the Complaint, HMP alleges that Warner-Lambert breached its oral contract to purchase eight meetings when Warner-Lambert requested

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[1] Originally plaintiff Health Management Publications, Inc. sued both Warner-Lambert Company and Parke, Davis & Company. The parties later stipulated that Warner-Lambert Company is the only proper defendant in this case. See Health Management Publications, Inc. v. Warner-Lambert Company, et al., Civ. A. No. 98-1557 (E.D. Pa. July 20, 1998) (approving stipulation).

[2] As our jurisdiction over this case is based upon diversity of citizenship, 28 U.S.C. § 1332, Erie Railroad v. Tompkins and its progeny instruct us that we must apply the state law as if we were a state court. See Erie R.R. v. Tompkins 304 U.S. 64 (1938); Instructional Sys., Inc. v. Computer Curriculum Corp., 35 F.3d 813, 823 (3d Cir. 1994).

that HMP coordinate only three meetings because Warner-Lambert did not have sufficient funds to purchase any more meetings at that time. HMP contends that parol evidence should be admitted to prove the existence of an oral contract for eight meetings rather than three. In Count II of the Complaint, HMP alleges that Warner-Lambert was unjustly enriched when it failed to pay the full cost of the three meetings HMP coordinated in the summer of 1996 for Warner-Lambert. Warner-Lambert, on the other hand, argues that the parties had a written contract to coordinate only three meetings and that Warner-Lambert paid HMP the full amount it owed for the three meetings HMP coordinated.

For the reasons set forth below, we will grant Warner-Lambert's motion for summary judgment in part and deny it in part for three reasons: (1) the parties had a written, fully integrated agreement for the performance of three meetings at a cost of $84,900 per meeting, thereby precluding the introduction of any parol evidence about alleged prior negotiations and agreements; (2) as the parties had a written, completely integrated agreement, plaintiff's claim of unjust enrichment cannot stand; and (3) genuine issues of material fact remain as to whether Warner-Lambert fully paid HMP under the terms of the contract for the three meetings HMP coordinated in 1996.[3]

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[3] A summary judgment motion should only be granted if we conclude that "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). With a motion for summary judgment, the moving party bears the burden of proving that no

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Background

In late 1995 and early 1996, J.T. Spitznagel ("Spitznagel"), on behalf of HMP, met several times with Gary Theriot ("Theriot"), a Warner-Lambert employee, to discuss the idea of HMP coordinating a series of meetings for doctors that Warner-Lambert would purchase. Warner-Lambert contends that while the parties were negotiating the price per meeting and the number of meetings, HMP coordinated a "faculty meeting" in Atlanta, Georgia on April 21, 1996. It is undisputed that Warner-Lambert paid the full cost of the "faculty meeting," and HMP admits that the faculty meeting "had nothing to do with the consultant series for which the parties had contracted." HMP's Memorandum at 3.

Warner-Lambert argues that soon after the faculty meeting, in late April or early May of 1996, Theriot told Spitznagel that Warner-Lambert could only afford to purchase

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genuine issue of material fact is in dispute, see Matsushita Elec. Indus. Co. Ltd. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986), and all evidence must be viewed in the light most favorable to the nonmoving party. See id. at 587. Once the movant has carried its initial burden, then the nonmoving party "must come forward with 'specific facts showing there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)) (emphasis omitted); see also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)(holding that the non-moving party must produce evidence such that a reasonable jury could find for that party); Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986) (holding that the non-moving party must go beyond the pleadings to show that there is a genuine issue for trial).

three meetings. Shortly thereafter, Spitznagel sent Theriot a letter dated May 24, 1996 (hereinafter the "May 24, 1996 letter"), which Warner-Lambert argues constitutes the fully integrated, written agreement of the parties for the purchase of three meetings. The letter states:

> May 24, 1996
>
> Mr. Gary Theriot
> Marketing Manager
> Parke-Davis
> 1050 Crown Pointe Parkway
> Atlanta, GA 30338
>
> Dear Gary:
>
> Please let this letter serve as our official agreement to coordinate the series of three cardiovascular consultant meetings.
>
> As discussed, we are projecting a cost for coordinating the three meetings to run a total of $254,700, or $84,900 per meeting.
>
> This cost encompasses all travel, lodging and food expenses for 20 to 25 physicians for a weekend in Charleston, New Orleans, and Miami respectively. The cost does not include the payment of honoraria for the physicians. If we are going to pay an honoraria, we will have to add it into the cost.
>
> Also, this cost includes all promotional and actual meeting material including, but not limited to invitations, registration, syllabus book/binder, slides, and any on site audio/visual requirements.
>
> The payments for the meetings will be made in three installments. Please pay us one third the cost of the program ($84,900) at the inception of the agreement, one third within 10 days of the start of the second meeting in New Orleans on July 12, 1996, and the final third within 10 days of the start of third meeting on July 19, 1996.

> As is the norm with this type of program, we will have a final rectification of the charges when this series of three meetings is complete.
>
> As always, we appreciate the business you are giving us, and please don't hesitate to give me a call if you have any questions or feel we can be any further assistance to you. If everything looks fine to you with this agreement, please sign it below, and fax it back to us at (610) 688-8050.
>
> Thanks again for the business!
>
> Best regards,
>
> J.T. Spitznagel
> Sales Manager

Warner-Lambert's Memorandum, Exhibit F. It is not disputed that HMP coordinated three meetings for Warner-Lambert in June and July of 1996: one in Seabrook, South Carolina, one in New Orleans, Louisiana, and one in Boca Raton, Florida.

Warner-Lambert argues that because the May 24, 1996 letter constitutes the completely integrated, written agreement upon which the parties acted, no parol evidence is admissible as to alleged prior negotiations and agreements between the parties. Warner-Lambert further contends that plaintiff's claim for unjust enrichment must be dismissed because a claim for unjust enrichment is inapplicable when there is an express contract between parties.

In its response, HMP depicts a very different course of interactions between the parties. HMP alleges that while its regular business practice is to have a written contract with its customers, Theriot consistently refused to sign a written contract throughout their dealings. In an effort to show the

progress of the negotiations (and the fact that HMP tried to get Theriot to sign a written contract), HMP explains that in January of 1996 Spitznagel sent two different "proposals" to Warner-Lambert for Theriot's approval. See HMP's Memorandum, Exhibits B & C. The first "proposal," dated January 9, 1996 ("the January 6, 1996 letter"), allegedly enclosed a "boilerplate" agreement, which Spitznagel testified probably listed the contract price at $120,000 per meeting. See HMP Memorandum at 2 & Exhibit B.[4] The second "proposal" letter dated January 27, 1996 ("the January 27, 1996 letter") actually contained two separate proposals: the first concerned the planning of the faculty meeting in late April, 1996, and the second was a proposal for a series of seven meetings at a cost of $118,616.23 per meeting. See HMP's Memorandum, Exhibit C. Theriot did not sign off on either of the two proposals as HMP requested.

HMP nevertheless contends that as negotiations and planning continued, sometime in or about January, 1996, the parties reached an oral agreement that HMP would coordinate eight meetings at a price of $84,900 per meeting, which plaintiff contends is a substantial discount from its customary charge of

[4] The exact number of meetings proposed and the proposed cost per meeting is not entirely clear, because the plaintiff only provides a copy of the January 9, 1996 letter but has not provided a copy of the "boilerplate" agreement which allegedly was attached to the letter. See HMP Memorandum, Exhibit B. We will assume for purposes of summary judgment that the "boilerplate" agreement was attached to the letter and proposed the planning of several meetings at a cost of approximately $120,000 per meeting.

$125,000 per meeting. See HMP Memorandum at 3. HMP has not submitted any evidence of this oral agreement other than the deposition testimony of Spitznagel and his boss, Patrick Scullin ("Scullin"), the President of HMP. See HMP Memorandum at 3. Further, HMP alleges that even after they had reached a verbal agreement to coordinate the series of eight meetings, Theriot threatened to cancel the entire contract if HMP did not sponsor a weekend of entertainment in New York City for Theriot, members of Theriot's family, Theriot's boss, and others. HMP contends that due to the threat of losing the contract, it sponsored the weekend in New York City and later, at Theriot's demand, billed the costs of the entire weekend to Warner-Lambert as part of the consultation series.[5]

HMP claims that during that New York City weekend Theriot told Spitznagel that Warner-Lambert only had sufficient funds to schedule three seminars. HMP contends that the May 24, 1996 letter was written after HMP had begun performance of the oral contract and that the letter reflected Theriot's statement that he could only schedule three seminars at that time. See HMP Memorandum at 4. HMP alleges that even after writing the May 24, 1996 letter, it believed that there was still a contract for a total of eight meetings, and that the additional meetings would

[5] HMP appears to have been fully compensated for the cost of the New York City weekend, and does not claim any unrecovered costs from that weekend in its complaint.

be booked when Theriot had sufficient funds in his budget. See id..[6]

Thus, we are presented with the question of whether the May 24, 1996 letter is the final and complete expression of the parties' agreement, or whether it was only part of a larger agreement for eight meetings and, further, whether we should allow parol evidence as to alleged prior negotiations or agreements.

Legal Analysis

A. Liability

At the outset, we note that the question of whether the parol evidence rule applies is a question for the Court, rather than for a jury. See Hershey Foods Corp. v. Ralph Chapek, Inc., 828 F.2d 989, 995 (3d Cir. 1987) ("Hershey Foods")(citing Walker v. Saricks, 63 A.2d 9, 11 (Pa. 1949)). Furthermore, we also note that a correspondence which is not signed by both parties, as here, can still be a contract if the parties, acting pursuant to its terms, evidence acceptance. See Hershey Foods, 828 F.2d at 995 n.5.[7]

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[6] In support of this position, HMP has provided no evidence other than the deposition testimony of Spitznagel and his boss, Scullin.

[7] It is not disputed here that (a) Spitznagel wrote the May 24, 1996 letter, (b) Warner-Lambert received the letter, and (c) both parties acted in accordance with its terms. HMP argues, however, that the January 9, 1996 letter or the January 27, 1996 letter, see HMP Exhibits B & C, could just as easily be

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The parol evidence rule provides that when parties to a contract have reduced their agreement to writing, that writing will be the sole evidence of their agreement, and parol evidence may not be admitted in the absence of fraud, accident, or mistake: "'Where parties, without any fraud or mistake, have deliberately put their engagements in writing, the law declares the writing to be not only the best, but the only, evidence of their agreement . . . . All preliminary negotiations, conversations and verbal agreements are merged in and superseded by the subsequent written contract . . . .'" Scott v. Bryn Mawr Arms, Inc., 312 A.2d 592, 594 (Pa. 1973) (quoting Gianni v. Russell & Co., 126 A. 791 (Pa. 1924) (citations omitted)). The purpose of the rule is to "preserve the integrity of written agreements by refusing to permit the contracting parties to attempt to alter the import of their contract through the use of contemporaneous oral declarations." Rose v. Food Fair Stores, Inc., 262 A.2d 851, 853 (Pa. 1970). If the writing represents

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[7](...continued)
considered the parties' complete agreement, as they are also letters which were sent from HMP to Warner-Lambert and were signed by only one party. This argument is frivolous. Both the January 6, 1996 letter and the January 27, 1996 letter are clearly labeled as "proposals," and neither party claims that they are the actual contract upon which they acted (for example, the prices listed in both "proposal" letters do not comport with the parties' final agreed price of $84,900 per meeting). The May 24, 1996 letter, on the other hand, is phrased in explicit terms as the "official agreement to coordinate the series of three cardiovascular consultant meetings," Warner-Lambert's Exhibit F, and was treated as a contract by both parties. The only issue, therefore, is whether the May 24, 1996 letter constituted the complete and final agreement of the parties, or whether it was part of a larger contract for eight meetings.

the entire agreement between the parties, then the parol evidence rule applies.

In order to decide whether the parol evidence rule applies, we must examine the writing and compare it to the alleged oral agreement. See Hershey Foods, 828 F.2d at 995. If the writing and the alleged oral agreement relate to the same subject matter and are so interrelated that they would both be executed at the same time and in the same contract (e.g., both normally would have been included in one agreement), then the oral agreement must be considered as having been covered by the writing. See id. (citing Gianni, 281 Pa. at 323-24; Crompton-Richmond Co. v. Smith, 253 F. Supp. 980, 983 (E.D. Pa. 1966), aff'd, 392 F.2d 577 (3d Cir. 1967)).

The facts and holding in Hershey Foods inform our inquiry. In that case, Ralph Chapek, Inc. ("Chapek"), a marketing and consulting firm, submitted an unsolicited proposal to Hershey Foods Corporation ("Hershey") to assist Hershey in assessing the feasibility of marketing Hershey's chocolate milk and ice cream. The proposal outlined various studies to be undertaken and proposed two options for compensating Chapek: the first option was that Chapek was to receive fifteen percent of the first five years' royalties and fees, and the other option was for Chapek to become the licensee for the Hershey trademark, for which Chapek would be paid a royalty. Two months later, Ralph Chapek met with a representative of Hershey and they discussed the proposal. Three days later, Chapek wrote a letter

to Hershey, referring to their meeting and setting forth their agreement that Chapek would perform a chocolate milk study for which it would be paid $17,500. Two years later, Chapek wrote to Hershey claiming it was entitled to be paid a commission calculated as a percentage of Hershey's licensing royalties and fees.

Hershey then filed a declaratory judgment action, seeking a declaration that it was not obligated to pay Chapek beyond the terms of its letter. Chapek counterclaimed, seeking to recover, inter alia, on a theory of breach of contract and quantum meruit (unjust enrichment). Hershey moved for summary judgment, arguing that Chapek's letter was the complete, integrated agreement between the parties and that proof of any oral contract to pay Chapek fifteen percent of Hershey's fees and royalties for other services would be barred by the parol evidence rule.

In affirming the district court's grant of summary judgment in favor of Hershey, our Court of Appeals found that Chapek's letter related to the same subject matter that was discussed at the earlier meeting and that the letter was the "complete integrated agreement of Hershey and Chapek." Id. at 998. Accordingly, our Court of Appeals barred any parol evidence as to any contrary or additional terms.

Here, as in Hershey, we find that the May 24, 1996 letter clearly relates to the same subject matter as any alleged prior oral negotiations and agreements between the parties

(namely, the number of meetings and the price per meeting), and are so interrelated that they would have to be executed at the same time and in the same contract.[8] The plain words of HMP's own May 24, 1996 letter belie its claim that there was a prior oral agreement. The May 24, 1996 letter states, "[p]lease let this letter serve as our official agreement to coordinate the series of three cardiovascular consultant meetings." Warner-Lambert's Exhibit F.[9] The May 24, 1996 letter explicitly listed the price per meeting, location of each meeting, and number of meetings to be held, and the parties indisputably acted in accordance with the terms of the letter.

Accordingly, we find that the May 24, 1996 letter from HMP to Warner-Lambert constitutes the complete, integrated written agreement between the parties for the coordination of three meetings.[10] Therefore, we will bar the admission of parol

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[8] The number of meetings and price per meeting go to the very core of the negotiations between the parties. If there had been an agreement to coordinate more than three meetings, HMP --the author of the contract--would have in some way referenced that fact in its May 24, 1996 letter to Warner-Lambert.

[9] There is nothing in the May 24, 1996 letter even hinting that there was a broader verbal agreement for additional meetings in the future. Furthermore, plaintiff's use of the word "the" when it stated that the May 24, 1996 letter would "serve as our official agreement to coordinate the series of three cardiovascular consultant meetings" is also notable. See Warner-Lambert's Exhibit F (emphasis added). Had there been an oral agreement for future meetings, perhaps the plaintiff would have stated that this was "a" series of three meetings, rather than "the" series of three meetings.

[10] We reject HMP's expansive contention, without any citation to any case law authority, that the contract in this
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evidence as to any alleged oral negotiations or agreements between the parties before the May 24, 1996 letter agreement. Furthermore, we will also enter judgment for Warner-Lambert on HMP's claim for unjust enrichment as the parties had an express, written contract. See Hershey Foods, 828 F.2d at 999 (holding that under Pennsylvania law, the quasi-contractual doctrine of unjust enrichment is inapplicable when the relationship between the parties is founded on a written contract); Benefit Trust Life

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[10](...continued)
case was procured by fraud. See HMP's Memorandum at 14. First, HMP has presented no evidence of fraud other than the self-serving and conclusory allegations in Spitznagel's and Scullin's depositions. If bald allegations of fraud alone were sufficient to avoid the parol evidence rule, the rule would go up in a puff of smoke. Furthermore, the "fraud exception" to the parol evidence rule has been narrowed considerably by the Pennsylvania courts in recent years. See HCB Contractors v. Liberty Place Hotel Assoc., 539 Pa. 395, 652 A.2d 1278 (Pa. 1995); 1726 Cherry Street Partnership v. Bell Atlantic Properties, 439 Pa. Super. 141, 653 A.2d 663 (Pa. Super. 1995); Dayhoff, Inc. V. H.J. Heinz Co., 86 F.3d 1287, 1298-1301 (3d Cir. 1996) (discussing the transformation of Pennsylvania law); Regent Nat'l Bank v. Dealers Choice Automotive Planning, Civ. No. 96-7930, 1997 WL 786468 at *5 (Nov. 26, 1997); Falbo v. State Farm Life Ins. Co., Civ. No. 96-5540, 1997 WL 116988 at *4-5 (E.D Pa. Mar. 13, 1997). Under Pennsylvania law as it now stands, parol evidence is only admissible to show "fraud in the execution" of a contract, but not "fraud in the inducement." See Dayhoff, Inc., 86 F.3d at 1300; Regent Nat'l Bank, 1997 WL 786468 at *5; Falbo, 1997 WL 116988 at *4-5. Fraud in the execution exists only when a party deceives another into believing he is signing something which is not what it purports to be. See Dayhoff, 86 F.3d at 1300. Here, plaintiff HMP wrote and signed the May 24, 1996 letter; it cannot now claim that it did not know what it was writing or signing. Fraud in the inducement, on the other hand, does not involve terms omitted from an agreement, but rather allegations of oral representations on which the other party relied in entering into the agreement, but which are contrary to the express terms of the agreement. See id. This is the type of fraud HMP alleges, which does not suffice to avoid the parol evidence rule. See Dayhoff, 86 F.3d at 1300; Regent Nat'l Bank, 1997 WL 786468 at *5; Falbo, 1997 WL 116988 at *4-5.

Ins. Co. v. Union Nat'l Bank, 776 F.2d 1174, 1177 (3d Cir. 1985)(same).

B. Damages

Finally, as we have established that there was a written contract for the coordination of three meetings, we turn to the issue of whether Warner-Lambert paid HMP for the three meetings it coordinated in the summer of 1996.

At the outset, we note that no reasonable jury could find that the price per meeting--$84,900--was an estimated price, as Warner-Lambert now argues. The May 24, 1996 letter states that HMP is "projecting a cost for coordinating the three meetings to run a total of $254,700, or $84,900 per meeting," Warner-Lambert Exhibit F, which we find in simple English articulates a flat-rate price, rather than an estimated price. Referring to the total price of $254,700 (or $84,900 per meeting), the May 24, 1996 letter states that "this cost" includes "all travel, lodging and food for 20 to 25 physicians" as well as "all promotional and actual meeting material including, but not limited to invitations, registration, syllabus book/binder, slides, and any on site audio/visual requirements." Id. The May 24, 1996 letter makes plain, however, that the total cost of $254,700 ($84,900 per meeting) "does not include the payment of honoraria for the physicians" and that the payment of honoraria would be added to the total cost. See id. Furthermore, the May 24, 1996 letter requests payments to be made in three installments:

> Please pay us one third the cost of the program ($84,900) at the inception of the agreement, one third within 10 days of the start of the second meeting in New Orleans on July 12, 1996, and the final third within 10 days of the start of the third meeting on July 19, 1996. As is the norm with this type of program, we will have a final rectification of the charges when this series of three meetings is complete.

Id.[11]

Therefore, as we find that the price--$84,900 per meeting or $254,700 for the three meetings--is a flat rate, the only issue remaining is whether Warner-Lambert fully compensated HMP for the three meetings HMP coordinated. It is undisputed that Warner-Lambert has already paid HMP a total of $188,647.79 toward the three meetings.[12] Warner-Lambert argues, however, that it does not owe anything further, because on September 16, 1996, HMP sent Warner-Lambert a memorandum stating that "[t]he following is a breakdown of all costs associated with the three

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[11] In its memorandum, Warner-Lambert argues that the fact that HMP stated in the May 24, 1996 letter that it was "projecting" a cost of $254,700 (or $84,900 per meeting) and the fact that HMP contemplated sending a "final rectification" after the three meetings were finished suggests that the price was merely an estimated rate, not a fixed rate. This argument is without merit. The unambiguous language of the May 24, 1996 letter makes it clear that the flat rate is $254,700 (or $84,900 per meeting), but that extra costs, such as honoraria, would have to be added to the bill after the meetings were finished. The use of the terms "projecting" and "final rectification" are included in the May 24, 1996 letter to account for these possible extra costs.

[12] During the summer of 1996, Warner-Lambert sent HMP two payments totaling $84,729.26, see Warner-Lambert Exhibits H & I, and later sent two checks totaling $103,918.53, see Warner-Lambert Exhibits K & L, for a total payment of $188,647.79.

Complete Cardiovascular Care meetings we coordinated," and listing a total cost of $188,647.78 for the three meetings. See Warner-Lambert Exhibit J (hereinafter "the September 16, 1996 memorandum").

HMP has presented enough evidence, however, to show that the September 16, 1996 memorandum was "manufactured" at Theriot's request because Warner-Lambert did not have sufficient funds in late 1996 to pay the full amount it owed to HMP, and so HMP sent Warner-Lambert an inaccurate "breakdown" of costs which Warner-Lambert could afford at that time, with the understanding that Warner-Lambert would pay the balance in early 1997 (and possibly order more meetings in the future). See HMP Exhibit F, Letter from J.T. Spitznagel to Gary Theriot (September 27, 1996) (stating that "the first payment of next year's program (whatever that may be at this point) will be used to resolve the invoices that remain open in our corporate accounting department from the 1996 program."); HMP Exhibit G, Letter from J.T. Spitznagel to Gary Theriot (December 16, 1996)(stating that Warner-Lambert still owed HMP $84,729.26 from the New Orleans meeting, but agreeing to roll over the outstanding invoices into next year's programs if more meetings were ordered).

Therefore, as genuine issues of material fact remain as to how much Warner-Lambert owes HMP for the three meetings HMP coordinated in 1996, we will deny Warner-Lambert's motion for

summary judgment.[13] As the amount which Warner-Lambert owes HMP is well below $100,000, we will send this case to compulsory arbitration pursuant to Local Rule of Civil Procedure 53.2.3.A to commence on December 1, 1998.

An Order follows.

[13] At a minimum, Warner-Lambert still owes HMP $66,052.21 (the difference between the contract price of $254,700 and the $188,647.79 Warner Lambert has paid). Material issues of fact still exist, however, as to how much more Warner-Lambert owes HMP beyond $66,052.21. HMP appears to claim that it is owed a total of $84,729.26. See HMP Exhibit G.

IN THE UNITED STATES DISTRICT COURT
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HEALTH MANAGEMENT PUBLICATIONS, INC.	:	CIVIL ACTION
v.	:	
WARNER-LAMBERT COMPANY	:	NO. 98-1557

ORDER

AND NOW, this 10th day of November, 1998, upon consideration of defendant Warner-Lambert's motion for summary judgment, and plaintiff's response in opposition thereto, and defendant's reply brief, and for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

1. Defendant's motion for summary judgment is GRANTED IN PART and DENIED IN PART as set forth below;

2. Defendant's motion for summary judgment on plaintiff's claim for unjust enrichment is GRANTED;

3. As to Count II of the complaint, JUDGMENT IS ENTERED in favor of defendant Warner-Lambert Company and against plaintiff Health Management Publications, Inc.;

4. To the extent that defendant Warner-Lambert Company argues that plaintiff's May 24, 1996 letter constitutes a complete integrated agreement for the coordination of three meetings at a cost of $84,900 per meeting, its motion for summary judgment is GRANTED;

5. To the extent that defendant Warner-Lambert Company argues that it has already paid plaintiff in full for coordinating the three meetings, genuine issues of material fact remain and defendant's motion for summary judgment is DENIED;

6. Paragraphs six and seven of our Scheduling Order of June 12, 1998 (setting due dates for pretrial submissions and trial) are VACATED; and

7. As plaintiff's claims are now less than $100,000, compulsory arbitration pursuant to Local R. Civ. P. 53.2.3.A shall commence on December 1, 1998, on the sole issue of the amount of money plaintiff is owed for the coordination of the three meetings under the May 24, 1996 letter agreement.

BY THE COURT:

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Stewart Dalzell, J.